

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.15608 of 2006

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Dated:07.09.2006

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Between:

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Eggada Mangamma, and others.

...Petitioners

and

The State of A.P and others.

...Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.15608 of 2006

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ORDER:

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The petitioners, who are 22 in number, filed the present Writ Petition seeking a writ of mandamus declaring the action of the fourth respondent, namely the Mandal Revenue Officer, Pendurthi Mandal in Visakhapatnam District, in trying to interfere with the possession of their houses even while the applications made by them under G.O.Ms.No.1601, dated 29.08.2005, for regularization of the occupation, are pending. They also seek a consequential direction to the respondents not to interfere with their possession.

It is the case of the petitioners that all of them and others, about 400 families, occupied the Government land in Survey No.113 admeasuring Acs.6.00 and raised huts/temporary structures in the land admeasuring 50 to 80 square yards. They statedly obtained electricity connection and electronic photo identity cards and living in the houses. They also allege that Chinamushidivada Gram Panchayat gave house numbers to their structures. It is their case that when the Government issued orders in G.O.Ms.No.1601, dated 29.08.2005, ordering regularization of occupation of the Government lands for the purpose of residential houses, they made their applications to the competent authority, which are pending. It is their allegation that on 15.07.2006, the fourth respondent came with the Police Force and

earth moving equipment and tried to demolish their huts and small RCC structures without giving any notice, and the fourth respondent also issued directions to the sixth respondent to disconnect the power supply given to their houses. They allege that all of them are living in the area for a period extending from fifteen to twenty years and without there being any notice, they cannot be dispossessed.

At the stage of admission itself, the Mandal Revenue Officer, Pendurthi Mandal, has filed a counter affidavit. The case of the petitioners that they are in possession of the houses, that they obtained electricity connection and that they made applications under G.O.Ms.No.1601, dated 29.08.2005, are admitted. It is stated as under.

5. The writ petitioners have formed into groups and started to occupy the Government lands by constructing thatched huts with a view to grab the valuable Government land, some of the encroachers who have influence and access to the political leaders have managed to obtain electricity connections to the huts. Some of the petitioners have filed applications requesting regularization of their unauthorized occupations in terms of G.O.Ms.No.1601, dated 29.08.2005. Government in their G.O.Ms.No.1601/Revenue/Assignment (1) Department, dt. 29.08.2005, issued orders to regularize the encroachments in existence prior to 31.03.1990, the encroachers including the petitioners were not in occupation as on the date of 31.03.1990. These encroachments have been cropped up in the year 2005-2006 by the land grabbers. Therefore their cases cannot be regularized under the provisions of G.O.Ms.No.1601, dated 29.08.2005. All the petitioners are residing in Chinamushidivada Village.

6. In reply to para 3 it is respectfully submitted that during inspection of Government lands the unauthorized constructions were noticed and action was taken to stop the unauthorized constructions in the Government lands. The 4th respondent as the custodian of the Government land has taken action to protect the Government lands.

As seen from the above two paragraphs of the counter affidavit, except denying the allegation that the petitioners were in occupation of the land in Survey No.113 prior to 31.03.1990, all other allegations made by the petitioners are admitted. In such a situation, this Court is not able to appreciate the action taken by the fourth respondent against the petitioners without issuing any prior notice. It is axiomatic that even an illegal occupant or encroacher of the Government land cannot be evicted without following due process of law either under the Andhra Pradesh Land Encroachment Act, 1905, or by taking recourse to the Andhra Pradesh Land Grabbing (Prohibition) Act,

1982. In this case the Mandal Revenue Officer admittedly did not issue any notice, and therefore, the action taken by the Mandal Revenue Officer cannot be sustained. Learned Assistant Government Pleader for Revenue (Assignment) does not dispute this legal position. He, however, submits that the petitioners are not eligible for any favorable orders under G.O.Ms.No.1601, dated 29.08.2005, as they occupied the Government land in Survey No.113 of Chinamushidivada Village during the last quarter of 2005. This is a matter, which requires verification.

In view of the counter averments and the submission made by the learned Assistant Government Pleader, this Writ Petition is disposed of in the following manner.

The respondents shall not in any manner interfere with the possession and enjoyment of the land as well as the building in possession of the petitioners unless proper notice is issued to them. If the applications made by the petitioners are still pending, they shall be considered in accordance with the guidelines contained in G.O.Ms.No.1601, dated 29.08.2005, and appropriate orders shall be passed within a period of four weeks from the date of receipt of a copy of this order. It shall also be open to the petitioners to approach the sixth respondent, namely the Assistant Engineer, Pendurthi Section, 33 KV/11 KV, Pendurthi Sub-Station, APEPDCL, Visakhapatnam District, for restoration of power supply.

The Writ Petition, with the above observations and directions, is accordingly disposed of. No costs.

(V.V.S.RAO, J)

07.09.2006

Note: Issue C.C by 11.09.2006.

B/o.

vs